



Agenda Date: 03/16/06
Agenda Item: IIIF

STATE OF NEW JERSEY
Board of Public Utilities
Two Gateway Center
Newark, NJ 07102
www.bpu.state.nj.us

CABLE TELEVISION

IN THE MATTER OF KINGSBURY ACRES
CONDOMINIUM ASSOCIATION, INC. VS.
RCN TELECOM SERVICES, INC.
F/K/A/ RCN OF NEW JERSEY AND PATRIOT
MEDIA COMMUNICATIONS CNJ, LLC.

ORDER ADOPTING
INITIAL DECISION

BPU DOCKET NO. CC03050412
OAL DOCKET NO. CTV 08547-2003

(SERVICE LIST ATTACHED)

BY THE BOARD:

The New Jersey Board of Public Utilities ("Board") and its Office of Cable Television ("OCTV"), pursuant to N.J.S.A. 48:5A-1 et seq. have been granted general supervision and regulation of and jurisdiction and control over all cable television systems which operate within the State of New Jersey, subject only to the limitations of federal law. Pursuant to this authority, the within matter was opened to the Board upon the filing of a petition by Kingsbury Acres Condominium Association (the "Association") on May 21, 2003, and an amended petition dated August 5, 2003, alleging property damage caused by RCN Telecom Services, Inc., formally known as RCN of New Jersey ("RCN") and Patriot Media & Communications CNJ, LLC ("Patriot") (collectively, the "Respondents").

This matter centers on claims of alleged damage and injury to the property of the Association by Respondents and their employees performing cable television maintenance and operations approximately one year prior to the filing of the initial petition. As a result of these actions, the Petitioner alleged that Respondents created unsightly conditions, damage and injury to soil, irrigation lines, wooden signs and shrubbery which were not repaired, replaced or rectified.

On or about July 11, 2003, the Association was informed by letter from RCN's counsel that on or about February 19, 2003, RCN had transferred its Certificates of Approval and sold its assets to Patriot Media & Communications CNJ, LLC under BPU Docket No. CM02090653.

On November 17, 2003, this matter was transmitted to the Office of Administrative Law ("OAL") under OAL Docket No. CTV 08547-2003 and was assigned to Administrative Law Judge ("ALJ"), the Honorable Douglas H. Hurd for determination as a contested case, pursuant to N.J.S.A. 52:14B-1 to -15 and N.J.S.A. 52:14F-1 to -13. It was thereafter scheduled for hearing dates all of which were adjourned pending settlement.

On or about January 24, 2006, a settlement conference was held and an Offer of Settlement Agreement was reached between all parties and the record in the matter was closed. The stipulations of the Offer of Settlement Agreement are as follows:

- RCN Telecom Services, Inc., formally known as RCN of New Jersey, will pay Kingsbury Acres Condominium Association eight thousand (\$8,000.00) dollars for restitution of the alleged damages.
- Patriot Media & Communications CNJ, LLC. will pay Kingsbury Acres Condominium Association one thousand (\$1,000.00) dollars for restitution of the alleged damages.

On January 27, 2006, the Offer of Settlement Agreement was submitted to the OAL for consideration. On February 9, 2006, ALJ Hurd filed his Initial Decision with the Board, which recommended that the Settlement be approved. ALJ Hurd found that the Parties have voluntarily agreed to the Settlement and that the Settlement is consistent with the law and fully disposes of all issues in controversy. The ALJ therefore concluded that the Settlement met the requirements of N.J.A.C. 1:1-19.1 and should be approved.

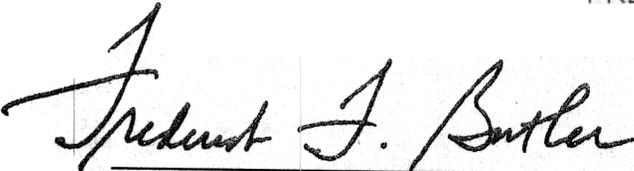
The Board has reviewed the Offer of Settlement and the Initial Decision and HEREBY FINDS them to be reasonable, in the public interest and in accordance with the law. Therefore, the Board HEREBY ADOPTS the Offer of Settlement and Initial Decision as its own, incorporating by reference the terms and conditions therein as if fully set forth at length herein.

DATED: 3/22/06

BOARD OF PUBLIC UTILITIES
BY:



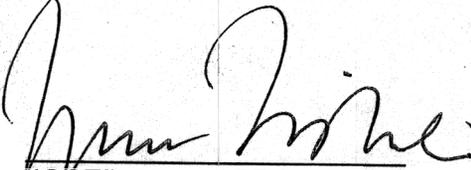
JEANNE M. FOX
PRESIDENT



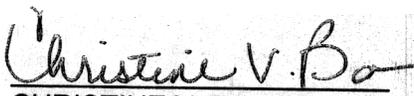
FREDERICK F. BUTLER
COMMISSIONER



CONNIE O. HUGHES
COMMISSIONER

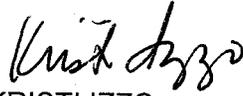


JOSEPH L. FIORDALISO
COMMISSIONER

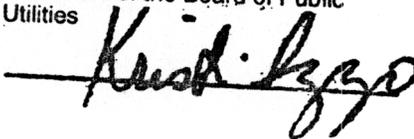


CHRISTINE V. BATOR
COMMISSIONER

ATTEST:



KRISTI IZZO
SECRETARY

I HEREBY CERTIFY that the within document is a true copy of the original in the files of the Board of Public Utilities


KRISTI IZZO

IN THE MATTER OF KINGSBURY ACRES CONDOMINIUM ASSOCIATION, INC. VS.
RCN TELECOM SERVICES, INC. FORMALLY KNOWN AS RCN OF NEW JERSEY
AND PATRIOT MEDIA & COMMUNICATIONS CNJ, LLC.

DOCKET NO. CC03050412

Dennis C. Linken, Esq.
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Office of Cable Television
Board of Public Utilities
Two Gateway Center
Newark, NJ 07102

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Deputy Attorney General
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Division of Law
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Ms. Regina Conlon
Bureau of Information Management
Board of Public Utilities
Two Gateway Center
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Bureau of Inspection & Enforcement
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Legal Specialist
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General Counsel
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Princeton, NJ 08540-6215

J.H. Buehrer & Associates
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Toms River, NJ 08755

F/W F/BO



State of New Jersey
OFFICE OF ADMINISTRATIVE LAW

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PUBLIC UTILITIES
NEWARK, N.J.

CMS
BESLOW
KPA
SLUTZKY
SHEEHAN
GILBERT, L
PETERS, B
CAJTV

INITIAL DECISION

SETTLEMENT

OAL DKT. NO. CTV 8547-03
AGENCY DKT. NO. CC03050412

KINGSBURY ACRES CONDOMINIUM
ASSOCIATION, INC.,

Petitioner,

v.

RCN TELECOM SERVICES, INC., F/K/A
RCN OF NEW JERSEY AND PATRIOT
MEDIA AND COMMUNICATIONS CNJ, LLC,
Respondents

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N.J. OFFICE OF C.A.T.V.

David J. Byrne, Esq., for petitioner (Stark & Stark, attorneys)

Robert Goode, Esq., for RCN Telecom Services, Inc., respondent

Rachel C. Maio, Esq. for Patriot Media and Communications CNJ, LLC (Stryker,
Tams & Dill, attorneys)

Record Closed: January 27, 2006

Decided: February 6, 2006

BEFORE DOUGLAS H. HURD, ALJ

This matter was transmitted to the Office of Administrative Law (OAL) on November 17, 2003, for determination as a contested case, pursuant to N.J.S.A. 52:14B-1 to -15 and N.J.S.A. 52:14F-1 to -13. The matter was thereafter scheduled for hearing dates all of which were adjourned pending a settlement in the matter.

On January 27, 2006, a settlement agreement was received by the undersigned and the record in the matter closed.

In light of the above, have reviewed the record and the terms of settlement and
I FIND

- 1 The parties have voluntarily agreed to the settlement as evidenced by their signatures or their representatives' signatures.
2. The settlement fully disposes of all issues in controversy and is consistent with the law.

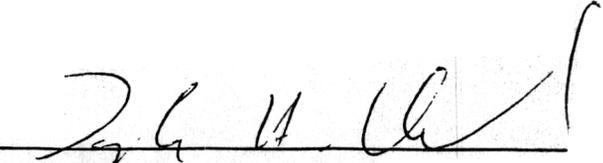
I **CONCLUDE** that this agreement meets the requirements of N.J.A.C. 1:1-19.1 and that the settlement should be approved. I approve the settlement and therefore **ORDER** that the parties comply with the settlement terms and that these proceedings be concluded.

hereby **FILE** my initial decision with the **BOARD OF PUBLIC UTILITIES** for consideration.

This recommended decision may be adopted, modified or rejected by the **BOARD OF PUBLIC UTILITIES**, which by law is authorized to make a final decision in this matter. If the Board of Public Utilities does not adopt, modify or reject this decision within forty-five (45) days and unless such time limit is otherwise extended, this recommended decision shall become a final decision in accordance with N.J.S.A. 52:14B-10

2-6-06

DATE

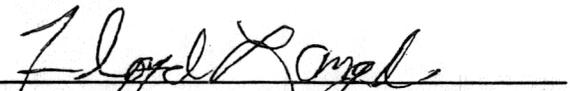


DOUGLAS H. HURD, ALJ

Receipt Acknowledged:

2-9-06

DATE



BOARD OF PUBLIC UTILITIES

Mailed to Parties

/lam

STARK & STARK
A Professional Corporation
993 Lenox Drive
CN 5315 - Building Two
Princeton, New Jersey 08543-5315
(609) 896-9060
Attorneys for Plaintiff, Kingsberry Acres Condominium Association, Inc

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KINGSBERRY ACRES
CONDOMINIUM ASSOCIATION, INC.

OFFICE OF CABLE
TELEVISION - BOARD
OF PUBLIC UTILITIES

Petitioner,

SETTLEMENT AGREEMENT

vs.

RCN TELECOM SERVICES, INC., formerly
known as RCN OF NEW JERSEY and PATRIOT
MEDIA & COMMUNICATIONS CNJ, LLC,

OAL Docket No. CTV 08547-2003S
Agency Ref. No. CC03050412

Respondents.

It is hereby stipulated and agreed between the Plaintiff, Kingsberry Acres Condominium Association, Inc. (hereinafter the "Association") and the Defendants, RCN Telecom Services, Inc. (hereinafter "RCN") and Patriot Media & Communications CNJ, LLC (hereinafter "Patriot Media") (RCN and Patriot Media, together, being referred to as "Defendants") as follows:

1 The parties have agreed to settle all outstanding differences on the following basis:

a. Defendants will pay to the Association the total sum of nine thousand dollars (\$9,000.00) as follows:

Defendant, RCN will pay to the Association the sum of eight thousand dollars (\$8,000.00) within thirty (30) calendar days of the approval and/or entry of this Settlement Agreement by the Board of Public Utilities (the "BPU");

ii. Defendant, Patriot Media will pay to the Association the sum of one thousand dollars (\$1,000.00) within thirty (30) calendar days of the approval and/or entry of this Settlement Agreement by the BPU;

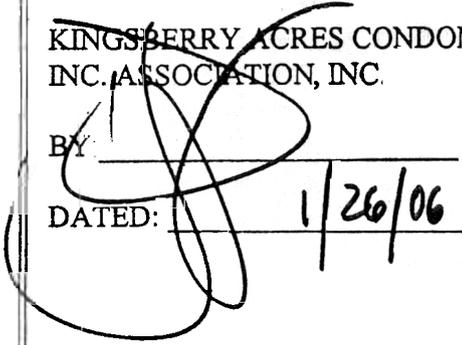
STARK & STARK
A PROFESSIONAL CORPORATION
ATTORNEYS AT LAW
MAILING ADDRESS
PO BOX 5315
PRINCETON, NEW JERSEY 08543-5315

iii All payments shall be made payable to Kingsberry Acres Condominium Association, Inc. and delivered to David J. Byrne, Esq., Stark & Stark, P.C., 993 Lenox Drive, P.O. Box 5315, Princeton, New Jersey 08543-5315

2. The Association (on behalf of itself and on behalf of its condominium owners with respect to the common areas of the premises of the Association) agrees to release Defendants from any and all claims, damages, liability or obligations ("claims") or potential claims from the beginning of time through the date of this Settlement Agreement, relating to (a) the installation, maintenance and/or operation of cable television equipment at or on the premises of the Association and/or (b) the provision of cable television and/or ancillary services by Defendants on the premises of the Association. Without limiting the foregoing, the Association releases the Defendants from any and all claims, damages, liability or obligations arising out of or in connection with the Petition and Amended Petition filed by the Association in OAL Docket No.CTV 08547-2003S .

3. This Settlement Agreement can be signed in counterparts.

KINGSBERRY ACRES CONDOMINIUM
INC. ASSOCIATION, INC.

BY: 

DATED: 1/26/06

RCN TELECOM SERVICES,
formerly known as RCN OF
NEW JERSEY

BY: 

DATED: 2006

PATRIOT MEDIA &
COMMUNICATIONS CNJ, LLC

BY: 

DATED: 1/25/2006



RECEIVED

06 FEB -9 PM 4:57
State of New Jersey
OFFICE OF ADMINISTRATIVE LAW
N.J. OFFICE OF C.A.L.M.
Quakerbridge Plaza, Building #9
Quakerbridge Road, PO Box 049
Trenton, New Jersey 08625-0049
(609) 588-6584

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MAIL ROOM
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PUBLIC UTILITIES
NEWARK, N.J.

SOUTH

Date: 2/9/2006

Re: Initial Decisions for Receipt

Receipt of the following decisions from the Office of Administrative Law (as well as a copy of this form) is acknowledged as of the date indicated below:

OAL Docket No. CTV

Case Name

854203

Kingsbury Acres Condominium
Assoc.

Office of Cable Television
Board of Public Utilities
2 Gateway Center
Newark, New Jersey 07102

Date: 2-9-06

[Signature]
Office of Cable Television